United Nations CRC/C/OPAC/DZA/CO/1

Convention on the Rights of the Child

Distr.: General
22 June 2018

Original: English

Committee on the Rights of the Child

Concluding observations on the report submitted by Algeria under article 8 (1) of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict*

I. Introduction

1. The Committee considered the initial report of Algeria (CRC/C/OPAC/DZA/1) at its 2289th meeting (see CRC/C/SR.2289), held on 17 May 2018, and adopted the present concluding observations at its 2310th meeting, held on 1 June 2018.

2. The Committee welcomes the submission of the report of the State party and the written replies to the list of issues (CRC/C/OPAC/DZA/Q/1/Add.1). The Committee expresses appreciation for the constructive dialogue held with the delegation of the State party.

3. The Committee reminds the State party that the present concluding observations should be read in conjunction with the concluding observations on the combined third and fourth periodic reports submitted by the State party under the Convention (CRC/C/DZA/CO/3-4), adopted on 15 June 2012.

II. General observations

Positive aspects

4. The Committee welcomes the various positive measures taken in areas relevant to the implementation of the Optional Protocol, in particular:

(a) **The creation of the National Human Rights Council in March 2017 following the Constitutional amendment of March 2016;**

(b) **The adoption of Law No. 15-12 of 15 July 2015 on the protection of children, which provides for the protection of children in emergencies, disasters and armed conflicts;**

(c) **The establishment, pursuant to article 11 of Law No. 15-12 of 15 July 2015, of the National Body for the Protection and Advancement of Children and the National Child Protection Ombudsman;**

(d) **The adoption of Law No. 14-06 of 9 August 2014, which stipulates that national service is compulsory for all Algerian male citizens over 19 years of age;**

* Adopted by the Committee at its seventy-eighth session (14 May–1 June 2018).

GE.18-10244(E)

1810244

Please recycle

(c) The adoption of Presidential Decree No. 08-134 of 6 May 2008 regulating the conditions of recruitment of career officers of the National People's Army, which states that "all citizens 18 years of age or older may apply for the recruitment competition as officer candidates".

III. General measures of implementation

Legislation

5. While welcoming the fact that the minimum age for conscription is set at 19 years under article 3 of Law No. 14-06 of 9 August 2014 on national service, the Committee is concerned that the provisions set forth in the Optional Protocol have not been fully incorporated into the national law of the State party. The Committee is particularly concerned about the absence of specific legislation defining the participation of children in hostilities, as stipulated in article 1 of the Protocol.

6. **The Committee urges the State party to review and amend the existing legislation in order to fully comply with the object and purpose of the Optional Protocol and the interpretation provided by the Committee, especially with regard to the definition of the participation of children in hostilities, in line with article 1 of the Optional Protocol.**

Coordination

7. While noting the establishment in March 2017 of a standing coordination committee, chaired by the National Child Protection Ombudsman, the Committee remains concerned that there is still no special body responsible for the coordination and implementation of the State party's obligations under the Optional Protocol.

8. **The Committee recommends that the State party establish an efficient body at a high level with sufficient authority and a strong mandate to coordinate all activities related to the implementation of the Optional Protocol at the cross-sectoral, national, provincial and local levels. The State party should ensure that such a coordinating body is provided with the necessary human, technical and financial resources for its effective operation.**

Comprehensive policy and strategy

9. The Committee notes that a new National Action Plan for Children is currently being finalized. It is, however, concerned about the lack of information on the time frame for its adoption and on whether it will cover all the issues related to the Optional Protocol.

10. **The Committee recommends that the State party expeditiously adopt the new National Action Plan for Children within a specific time frame and ensure that it covers all the rights enshrined in the Optional Protocol. The Committee also recommends that sufficient human, technical and financial resources are allocated for its effective implementation.**

Independent monitoring

11. The Committee welcomes the establishment of the National Body for the Protection and Advancement of Children, which is responsible, inter alia, for receiving and examining reported cases of the violation of children's rights.

12. **The Committee recommends that the State party provide the National Body for the Protection and Advancement of Children with the necessary human, technical and financial resources to carry out its mandate, allow for the effective monitoring of progress made in the realization of the rights set forth in the Optional Protocol and address complaints from children.**

Dissemination and awareness-raising

13. The Committee notes the awareness-raising activities undertaken by the National Commission for International Humanitarian Law through meetings, seminars and symposiums. It is, however, concerned that there are no targeted efforts to widely disseminate the principles and provisions of the Optional Protocol among the members of the armed forces and the general public, including children and their families.

14. **The Committee recommends that the State party enhance its efforts to make the principles and provisions of the Optional Protocol widely known to the members of the armed forces and the public at large, in particular children and their families, through, inter alia, school curricula, information packages received by recruits and long-term awareness-raising campaigns and training on the harmful effects of all the offences referred to in the Protocol and preventive measures to combat them.**

Training

15. The Committee welcomes the introduction of international humanitarian law courses for officers, non-commissioned officers and enlisted personnel of the National People's Army, and the awareness-raising and training activities undertaken by the National Body for the Protection and Advancement of Children on issues related to children's rights. It is, however, concerned about the lack of specific training programmes on the provisions of the Optional Protocol for relevant professionals working with or for children.

16. **The Committee recommends that the State party systematically include the Optional Protocol in the training of all relevant professional groups working with or for children, in particular the armed forces, members of international peacekeeping forces, law enforcement and immigration officers, prosecutors, lawyers, judges, social workers, medical professionals, teachers, media professionals and provincial and local officials.**

Data

17. The Committee notes that the National Body for the Protection and Advancement of Children is mandated to establish a national information system to monitor the situation of children in Algeria. It is, however, concerned about the absence of data relating to the implementation of the Optional Protocol, including data on asylum-seeking, refugee, migrant and unaccompanied children who enter the State party and may have been recruited or used in hostilities abroad.

18. **The Committee urges the State party to establish a centralized mechanism for the comprehensive collection of information and statistical data, disaggregated by age, sex, nationality and ethnic origin, on the implementation of the Optional Protocol, and for the identification and registration of all children under its jurisdiction who may have been recruited or used in hostilities abroad, including asylum-seeking, refugee, migrant and unaccompanied children.**

IV. Prevention

Recruitment

19. The Committee notes that, under Law No. 87-16 of 1 August 1987 establishing and determining the functions and structure of the "people's defence", citizens over the age of 18 are subject to popular defence obligations, unless they are subject to military service obligations. It also notes the information provided by the State party that children under 18 years of age are not recruited into community-level paramilitary self-defence organizations. It is, however, concerned about:

(a) The lack of information on the status and obligations of children aged 16 and 17 who "may benefit from military training" in relation to the "people's defence forces", and the nature of such training;

(b) The fact that the minimum age for recruitment into community-level paramilitary self-defence organizations is not explicitly specified by law and the lack of a monitoring mechanism to ensure that, in practice, such children are not recruited and used by these organizations or any other armed groups established, controlled, condoned, armed or permitted to bear arms by the State party.

20. **In line with the object and purpose of the Optional Protocol to protect all children under the age of 18 from involvement in armed conflict, the Committee urges the State party to:**

(a) **Ensure that children under the age of 18 are not recruited into "people's defence forces" or subject to military training, and are prevented from taking direct part in hostilities in all circumstances;**

(b) **Amend its legislation, including Executive Decree No. 97-04 of 4 January 1997, to set the minimum age for recruitment into community-level paramilitary self-defence organizations and any other armed groups established, controlled, condoned, armed or permitted to bear arms by the State party, at 18 years, and to set up an effective monitoring mechanism to ensure that, in practice, children are not recruited and used by such groups.**

Voluntary recruitment

21. The Committee notes the information provided by the State party that the National People's Army does not include in its ranks persons under 18 years of age, and that, according to article 10 of Presidential Decree No. 08-134 of 6 May 2008, "all citizens 18 years of age or older may apply for the recruitment competition as officer candidates". It notes, however, that, according to the State party's declaration upon ratification of the Optional Protocol, children may be voluntarily recruited into the armed forces from the age of 17. The Committee is concerned that:

(a) The right of volunteers under 18 years of age to be discharged from their military service at any time and not to pursue a military career is not explicitly stated in national legislation;

(b) Specific information on the duties and obligations involved in military service is not made available to volunteers and their parents or legal guardians, other than the existing laws and regulations on the matter;

(c) Underage volunteers may be subject to military discipline and, under certain circumstances, may be subject to military criminal law, placing them under military jurisdiction.

22. **In order to promote and strengthen the protection of children through an overall higher legal standard, the Committee encourages the State party to consider amending its domestic legislation with a view to setting the minimum age of voluntary recruitment into the armed forces at 18 years. The Committee also recommends that, in the meantime, the State party take all necessary measures to:**

(a) **Guarantee the right of volunteers under 18 years of age to be discharged from their military service at any time and not to pursue a military career;**

(b) **Make information available to volunteers and their parents or legal guardians in order to ensure that the recruitment of children into the armed forces is genuinely voluntary and made on the basis of an informed decision;**

(c) **Ensure that no underage volunteer is subject to military discipline and military law or to trial by military courts and that if charges are brought against underage volunteers trials are held in civilian courts and are consistent with the standards on juvenile justice set out in the Convention.**

Prevention of recruitment by non-State armed groups

23. The Committee notes the measures taken by the State party to prevent radicalization and recruitment into violent extremist groups. It is, nevertheless, concerned that measures

to address the leading factors in the recruitment of children by non-State armed groups, notably poverty, a lack of education and economic opportunities, discrimination against certain ethnic and religious minorities and a lack of proper birth registration for children born to unmarried parents, asylum-seeking, refugee and stateless children, including sub-Saharans and Sahrawis and children of suspected terrorists born in the maquis, have proved insufficient.

24. **The Committee urges the State party to develop a strategy to tackle the growing problem of extremism and radicalization in order to ensure that no children on its territory are recruited by non-State armed groups and to:**

(a) **Address the root causes of the recruitment of children by armed groups and launch a public information campaign to ensure that communities are aware of the dangers of child recruitment and how to protect their children from it;**

(b) **Pay particular attention to the prevention of the recruitment of children in vulnerable situations, and increase the security and protection of civilian populations in border areas, in particular by controlling borders effectively and strengthening cross-border frameworks of cooperation with neighbouring countries.**

Cadets of the Nation academies

25. The Committee notes the information provided by the State party that boys and girls enrolled in "Cadets of the Nation" academies are not considered military personnel, are not subject to military law and discipline or to mobilization in case of an armed conflict, do not receive weapons training, are not obliged to pursue a military career, and receive general education courses in the middle or secondary cycles taught by teachers from the Ministry of Education. It is, nevertheless, seriously concerned about:

(a) Students below 18 years of age receiving paramilitary training provided by the Ministry of Defence;

(b) The fact that children are only allowed to leave Cadets of the Nation academies at the request of their legal guardian;

(c) The lack of data on the students attending the Cadets of the Nation academies disaggregated by age, sex, *wilaya* (province), rural/urban areas, socioeconomic status and ethnic origin;

(d) The lack of information on access to an independent and confidential complaints and investigation mechanism for students under the age of 18 years enrolled in Cadets of the Nation academies.

26. **The Committee recommends that the State party:**

(a) **Establish by law that children enrolled in Cadets of the Nation academies do not receive paramilitary training;**

(b) **Ensure that children enrolled in Cadets of the Nation academies are allowed to join and leave them voluntarily;**

(c) **Provide systematic information and data disaggregated by age, sex, *wilaya*, rural/urban areas, socioeconomic status and ethnic origin on the students attending Cadets of the Nation academies;**

(d) **Provide children attending Cadets of the Nation academies with adequate access to independent and confidential complaints and investigation mechanisms.**

Human rights and peace education

27. While noting the efforts made by the State party to raise awareness of children's rights, the Committee is concerned about the lack of information on the promotion of a culture of peace, including issues relating to the Optional Protocol and human rights education, as a mandatory part of primary and secondary school curricula and in teacher training programmes.

28. **In line with its general comment No. 1 (2001) on the aims of education, the Committee recommends that the State party include human rights and peace education in the curricula of all schools and in teacher training programmes, with specific reference to the Optional Protocol.**

V. Prohibition and related matters

Criminal legislation and regulations in force

29. The Committee is deeply concerned that the recruitment and use of children under 18 years of age in hostilities by the armed forces, people's defence forces, non-State armed groups and private security companies have not been explicitly criminalized. It is also concerned that the recruitment of children below the age of 15 has not been defined as a war crime in the State party's legislation.

30. **The Committee urges the State party to:**

(a) **Explicitly prohibit and criminalize the recruitment and use of children under 18 years of age in hostilities by the armed forces, people's defence forces, non-State armed groups and private security companies;**

(b) **Define and punish the recruitment of children under the age of 15 as a war crime, and consider ratifying the Rome Statute of the International Criminal Court.**

Recruitment and use of children by non-State armed groups

31. The Committee is seriously concerned about the lack of information on the number of children living in the maquis and those recruited by and involved in activities of non-State armed groups, including Al-Qaida in the Islamic Maghreb and Jund al-Khilafah fi Ard al-Jaza'ir (the Islamic State in Iraq and the Levant Algerian branch), and the number of children indicted or convicted of terrorism-related charges or reported to be affiliated to individuals suspected of terrorism crimes and held in detention facilities.

32. **The Committee recommends that the State party take all necessary measures to:**

(a) **Provide data on or estimates of the number of children living in the maquis and those who have been recruited by non-State armed groups, including Al-Qaida in the Islamic Maghreb and Jund al-Khilafah fi Ard al-Jaza'ir, and the number of children who have been detained in connection with the fight against terrorism;**

(b) **Ensure that all forms of recruitment or use of children by non-State armed groups and any form of aiding and abetting recruitment and use be thoroughly investigated, prosecuted and punished;**

(c) **Ensure that children prosecuted for terrorism-related offences are treated in accordance with juvenile justice standards, that trials are conducted in a prompt and impartial manner, in accordance with international fair trial standards, taking into account the child's age at the time of the alleged commission of the crime, and that such children have access to physical and psychological recovery and social reintegration measures.**

Extraterritorial jurisdiction and extradition

33. The Committee regrets the lack of information on whether:

(a) The State party has established and assumes extraterritorial jurisdiction, without applying the principle of dual criminality, for all offences covered by the Optional Protocol;

(b) Bilateral extradition agreements signed by the State party cover all offences under the Optional Protocol and whether dual criminality is required in cases of extradition.

34. **The Committee recommends that the State party:**

(a) **Establish extraterritorial jurisdiction over acts prohibited under the Optional Protocol, including the conscription or enlistment of children into armed forces or non-State armed groups, or their use to participate actively in hostilities, if such crimes are committed abroad by or against an Algerian national or a person who otherwise has a close link with the State party;**

(b) **Ensure that the requirement of dual criminality for the prosecution of offences under the Optional Protocol committed abroad is not used when exercising its extraterritorial jurisdiction;**

(c) **Ensure that extradition treaties include all offences under the Optional Protocol and that dual criminality is not a requirement in such cases.**

VI. Protection, recovery and reintegration

Measures adopted to protect the rights of child victims

35. The Committee expresses serious concern at the numerous cases of refoulement and collective expulsion of refugee, asylum-seeking and migrant children and at the lack of mechanisms for ensuring the early identification of those who may have been recruited or used in hostilities abroad. The Committee also regrets the lack of information on the steps taken by the State party to provide for the physical and psychological recovery and rehabilitation of such children and to promote their reintegration into society.

36. **The Committee recommends that the State party:**

(a) **Comply with the principle of non-refoulement and the prohibition against arbitrary and collective expulsions;**

(b) **Provide systematic training on the early identification of refugee, asylum-seeking and migrant children who may have been recruited to serve in armed conflicts to all professionals working with or for children, particularly to immigration personnel, law enforcement officers, judges, prosecutors, social workers and medical professionals;**

(c) **Collect comprehensive data on refugee, asylum-seeking and migrant children who may have been recruited to serve in armed conflicts disaggregated by age, sex and nationality;**

(d) **Take all necessary measures, including careful assessment of the situation of children who may have been recruited to serve in armed conflicts, reinforcement of the legal advisory services available to them and the provision of immediate, culturally responsive, child-sensitive and multidisciplinary assistance, to ensure that such children are provided with physical and psychological recovery and have access to rehabilitation and reintegration programmes;**

(e) **Seek technical assistance from the Office of the United Nations High Commissioner for Refugees (UNHCR) and the United Nations Children's Fund (UNICEF) for the implementation of these recommendations.**

VII. International assistance and cooperation

International cooperation

37. **The Committee recommends that the State party continue and strengthen its cooperation with the International Committee of the Red Cross and with the Special Representative of the Secretary-General for Children and Armed Conflict, and that it explore increased cooperation with UNICEF and other United Nations entities in the implementation of the Optional Protocol.**

Arms export and military assistance

38. The Committee is concerned that the State party has no legislation to prohibit the trade, export and transit of arms, including small arms and light weapons, and the provision of military assistance to countries where children are known to be, or may potentially be, unlawfully recruited or used in armed conflicts or hostilities.

39. **The Committee recommends that the State party:**

(a) **Enact legislation to prohibit the sale or smuggling, export and transit of arms, including small arms and light weapons, and the provision of military assistance to countries where children are known to be, or may potentially be, unlawfully recruited or used in armed conflicts or hostilities;**

(b) **Consider ratifying the Arms Trade Treaty, which regulates the international trade in conventional weapons and prohibits States from exporting conventional weapons to countries when they know those weapons will be used for genocide, crimes against humanity or war crimes.**

VIII. Ratification of the Optional Protocol on a communications procedure

40. **The Committee recommends that, in order to further strengthen the fulfilment of children's rights, the State party ratify the Optional Protocol on a communications procedure.**

IX. Implementation and reporting

A. Follow-up and dissemination

41. **The Committee recommends that the State party take all appropriate measures to ensure that the recommendations contained in the present concluding observations are fully implemented, including by transmitting them to the President, relevant government ministries, the parliament, the Supreme Court and local authorities for appropriate consideration and further action.**

42. **The Committee recommends that the report and the written replies to the list of issues submitted by the State party and the present concluding observations be made widely available, including through the Internet, to the public at large, civil society organizations, youth groups, professional groups and children, including those enrolled in Cadets of the Nation academies, in order to generate debate on and awareness of the Optional Protocol and its implementation and monitoring.**

B. Next periodic report

43. **In accordance with article 8 (2) of the Optional Protocol, the Committee requests the State party to include further information on the implementation of the Optional Protocol and the present concluding observations in its next periodic report to be submitted in accordance with article 44 of the Convention.**